

98TH CONGRESS  
1ST SESSION

# H. R. 4460

To clarify the circumstances under which a trademark may be cancelled or considered abandoned.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 1983

Mr. KASTENMEIER introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To clarify the circumstances under which a trademark may be cancelled or considered abandoned.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That section 14 of the Act of July 5, 1946 (commonly known  
4 as the Trademark Act of 1946 (15 U.S.C. 1064)), is amended  
5 by adding at the end thereof the following: "For purposes of  
6 subsection (c) of this section, a registered mark shall not be  
7 deemed to be the common descriptive name of a product  
8 merely because the mark is used to identify a unique product  
9 or service. The exclusive test for determining whether a reg-  
10 istered trademark has become a common descriptive name

1 shall be whether a majority of the relevant public under-  
2 stands the trademark to function as a mark or as a common  
3 descriptive name.”.

4 SEC. 2. (a) Section 45 of the Act of July 5, 1946 (15  
5 U.S.C. 1127), is amended by striking out “The term ‘trade-  
6 mark’ ” and all that follows through “goods of the sponsor.”  
7 and inserting in lieu thereof the following:

8 “The term ‘trademark’ includes any word, name,  
9 symbol, or device or any combination thereof adopted and  
10 used to identify and distinguish the goods of one manufactur-  
11 er or merchant, including unique goods, from those manufac-  
12 tured or sold by others and to indicate that the goods come  
13 from a single source, even if that source is unknown.

14 “The term ‘service mark’ means a mark used in the sale  
15 or advertising of services to identify and distinguish the serv-  
16 ices of one person, including unique services, from the serv-  
17 ices of others and to indicate that the services come from a  
18 single source, even if that source is unknown.”.

19 (b) Section 45 of the Act of July 5, 1946, is further  
20 amended by adding after the period at the end of subsection  
21 (b) in the paragraph which begins to read “A mark shall be  
22 deemed ‘abandoned’ ” the following: “The exclusive test for  
23 whether a mark has lost its significance as an indication of  
24 origin shall be whether the majority of the relevant public so  
25 understands the mark.”.

- 1        SEC. 3. Section 1295(a)(1) of title 28, United States
- 2 Code, is amended by striking out "or trademarks".

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